

REMARKS

In the non-final Office Action mailed July 12, 2007, the Examiner noted that claims 1-35 were pending, and rejected all claims. Claims 1, 7, 11, 16, 22, 23, 25, 26, 29, 30, 32, 33, 34 and 36 have been amended, new claims 37 and 38 have been added and, thus, in view of the forgoing claims 1-38 remain pending for reconsideration which is requested. No new matter has been added. The Examiner's rejections and objections are traversed below.

In the Office Action, the Examiner objected to claim 16. Claim 16 has been amended in consideration of the Examiner's comments. Withdrawal of the objection is requested.

In the Office Action, the Examiner rejected claims 7 and 15-16 under 35 U.S.C. section 112 paragraph 2 as indefinite. Claim 7 has been amended responsive to the Examiner comments. With respect to claim 15, the Examiner is requested to note that claim 11 is about positioning of the control and claim 15 is about orientation and shape. The rejection of claim 15 is traversed. For a similar reason, the rejection of claim 16 is traversed. If additional concerns with the claims arise, the Examiner is invited to telephone to resolve the same. Suggestions by the Examiner are also welcome. Withdrawal of the rejection is requested.

On page 5 of the Office Action, the Examiner rejected claims 32 and 33 under 35 U.S.C. § 102 as anticipated by Anderson.

The Examiner is asserting that figures 2a, 2b and 3 of Anderson show the independent finger motion as called for in claim 32 and 33. The Examiner acknowledges that figures 2a and 2b are directed to wrist motion. As a result, the Examiner actually appears to be asserting that the design of figure 3 inherently requires such independent finger motion ("... which would require independent finger motion relative to the wrist...").

It is noted that: "... one who seeks a finding [anticipation] must show that each element of the claim in issue is found, either expressly described or under principles of inherency, in a single prior art reference," If even one element is missing then no anticipation is found or exists. (See Kalman v. Kimberly Clark Corp., 713 F.2d 760, 218 U.P.S.Q. 781, 789 (Fed.Cir.1983)), SGS-Thomson Microelectronics, Inc. v. International Rectifier Corporation, 32 USPQ 2d 1496, 1503 (Fed. Cir.) (Unpublished), cert. denied, 115 S. Ct. 655 (1994); Before a reference can be found to disclose a feature by virtue of its inherency, one of ordinary skill in the art viewing the reference must understand that the unmentioned feature at issue is necessarily present in the reference. Continental Can, 948 F.2d at 1268-69, 20 USPQ 2d at 1749-50. The test of inherency is not satisfied by what a reference "may" teach. Id., 20 USPQ 2d at 1749-50

("Inherency . . . may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient."); and Ex parte Levy, 17 USPQ 2d 1461, 1464 (B.P.A.I. 1990) [T]he examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.

The Examiner is submitted to be incorrect about this asserted inherency. There are other combinations that could be used that make the motion asserted by the Examiner not necessarily present in Anderson. For example, a wrist motion with a rotation about the shoulder would work. Withdrawal of the rejection for this reason is requested.

Additionally, claim 32 emphasizes the control zone is "aligned only to a natural user motion of independent finger motion". Anderson does not teach or suggest such.

It is submitted that the claims 32 and 333 patentably distinguish over Anderson and withdrawal of the rejection is requested.

Page 7 of the Office Action rejects claims 1-14, 17-21, 23, 25, 29-31 and 34-39 under 35 U.S.C. § 103 over Anderson and newly cited Miettinen. The Examiner acknowledges that Anderson does not teach that the arc shaped control zone aligned to a natural user motion produced by rotation of a user elbow or rotation of the user elbow and rotation of a user wrist. In particular, Anderson's figures show 360 degree circular layouts instead of subtle arcs that follow the curvature and limited range of rotating the wrist or elbow. As a result, the Examiner looks to Miettinen for the elbow and wrist rotations. Miettinen is about movement in a space surrounding the user. In particular, the user must turn completely around to access location 18 of figure 1 followed by location 19. In contrast, claim 1 emphasizes that the display is "located on a single side of the user" such as the embodiments of a tablet type device or a whiteboard as discussed in the application.

Claims 11, 23, 25, 29, 30, 33 and 36 emphasize similar features.

It is submitted that the independent claims 1, 11, 23, 25, 29, 30, 33 and 36 distinguish over the prior art and withdrawal of the rejection is requested.

Page 18 of the Office Action rejects claims 26 and 28 under 35 U.S.C. § 103 over Ono and Miettinen. As discussed above, the Miettinen input device completely surrounds the user. In contrast, claim 26 emphasizes that the input device is "located on a single side of a user". Withdrawal of the rejection is requested.

On page 21, claim 22 is rejected over Anderson, Miettinen and Keely. Claim 22

emphasizes that the input device is located on a single side of the user because claim 22 particularly recites a tablet computer. Withdrawal of the rejection is requested.

New claims 36 and 37 emphasize rotation only about the elbow (claim 36) or about the wrist (claim 37). Nothing in the prior art teaches or suggests such. It is submitted that these new claims, which are different and not narrower than prior filed claims, distinguish over the prior art.

It is submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

If any further fees, other than and except for the issue fee, are necessary with respect to this paper, the U.S.P.T.O. is requested to obtain the same from deposit account number 19-3935.

Respectfully submitted,

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